

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**TEMPORARY REGULATION CONCERNING AMENDMENTS TO
CHAPTER 645B OF THE NEVADA ADMINISTRATIVE CODE**

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

Authority: NRS 645B.060

Section 1. Chapter 645B of NAC is hereby amended by adding thereto the provisions set forth as sections 2-6, inclusive of this regulation.

Sec. 2.

“Documents” includes any account, including but not limited to bank, operating and trust accounts, contracts, writings, drawings, graphs, charts, photographs, phonorecords, electronic, magnetic, and other data compilations from which information can be obtained or translated or any tangible thing which contains matters within the scope of NRS chapter 645B or NAC chapter 645B or any applicable federal or state laws or regulations.

Sec. 3. 1. *An auditor conducting a periodic or special audit of a mortgage broker pursuant to NRS chapter 645B may:*

(a) Require the licensee to produce for purposes of the periodic or special audit any and all documents:

- (1) Relating to the business conducted under NRS chapter 645B or NAC chapter 645B; or*
 - (2) Required to be kept as part of the licensee's business by federal or state law; or*
 - (3) Kept on the business premises or business storage area of the licensee and which is related to the operation of the licensee's business.*
- (b) Inspect and copy, test, or sample, any and all documents which are in the possession, control or custody of the licensee or related to the business conducted under NRS chapter 645B or NAC chapter 645B.*

Sec. 4. 1. An examiner conducting an annual examination pursuant to NRS 645B.060(2)(c), other examination pursuant to NRS 645B.060(2)(d) may:

- (a) Require the licensee to produce for purposes of the annual or other examination pursuant to subsection 1 any and all documents:*
- (1) Relating to the business conducted under NRS chapter 645B or NAC chapter 645B; or*
 - (2) Required to be kept as part of the licensee's business by federal or state law; or*
 - (3) Kept on the business premises or business storage area of the licensee and which is related to the operation of the licensee's business.*
- (b) Inspect and copy, test, or sample, any and all documents which are in the possession, control or custody of the licensee or related to the business conducted under NRS chapter 645B or NAC chapter 645B.*

Sec. 5.

1. Each licensee, upon completion of an examination, will be rated on a scale of 1 to 5, with 1 being the highest rating and 5 being the lowest rating as described herein. The ratings will be based primarily on compliance with applicable statutes and regulations and the perceived capability of management to achieve and maintain such compliance.

(a) The rating of "1" indicates the licensee and its management have demonstrated the highest degree of compliance with applicable laws and regulations. Consideration of a "1" rating may be given if corrective action to a minor violation or documentation exception was immediate and will likely prevent future violations.

(b) The rating of "2" indicates the licensee and its management have demonstrated substantial compliance with applicable laws and regulations. The deficiencies noted in the report can be remedied with a minimum of regulatory supervision. Consideration of a "2" rating may be given if minor violations have also occurred previously and if corrective actions were immediate and will likely prevent future violations.

(c) The rating of "3" indicates the licensee and its management have demonstrated less than satisfactory compliance with applicable laws and regulations. Regulatory supervision is required to determine correction of the deficiencies noted in the report. Consideration of a "3" rating may be given if minor violations had previously occurred and corrective action was not taken.

(d) The rating of "4" indicates the licensee and its management have demonstrated substantial lack of compliance with applicable laws and regulations. Immediate

remedial action to correct the noted deficiencies is required. Close regulatory supervision is also necessary.

(e) The rating of "5" indicates the licensee and its management have demonstrated unsatisfactory compliance with applicable laws and regulations. Remedial action must be effective and immediate. Close regulatory supervision is also required.

Sec. 6.

1. No later than 15 days after the completion of an annual examination of a licensee, the examiner designated by the commissioner shall make and file a draft report thereof with the Division which must be comprised of facts appearing upon the files, books, records or other documents of the licensee examined, or as ascertained from statements of the officers or agents or other persons examined concerning the affairs of the licensee, and such conclusions and recommendations as may reasonably be supported from the facts. The format of the draft report will be consistent with the format utilized for a final report of examination.

2. No later than 15 days after receipt of the draft report of the examination, the commissioner or his designee shall deliver a copy of the report to the licensee examined, together with a notice affording the licensee 15 days, or such additional reasonable period as the commissioner for good cause may allow, within which to review the report and make any written submissions or objections to any matters contained in the report.

3. If any written submissions or objections are received by the Division within the time permitted by subsection 2, the commissioner or his designee shall:

(a) Hold an informal meeting with the licensee examined regarding the report within 15 days at the end of the period allowed for the receipt of written submissions or objections.

(b) Fully consider and review the report, together with any written submissions or objections and any relevant portions of the examiner's working papers and within 15 days after the informal meeting:

(1) Adopt the report as filed or with modification or corrections; or

(2) Reject the report and direct the examiner to reopen the examination for purposes of obtaining additional data, documents or information, and re-file the report pursuant to subsection 1 above. The licensee shall not be responsible for additional fees or costs incurred in connection with the reopening of the examination into any written objection submitted by a licensee.

4. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the licensee examined have been decided by the commissioner pursuant to subsection 3.

5. If the report reveals that the licensee is operating in violation of any law, regulation or previous order of the commissioner, the commissioner may order the licensee to take any action the commissioner considers necessary or appropriate to cure the violation. The commissioner shall also have the authority to take disciplinary action pursuant to NRS 645B.670.

6. If the licensee does not file a written submission or objection within the time permitted by subsection 2, the draft report will be deemed a final report of examination pursuant to NRS 645B.060.

7. The commissioner may extend a time period under this section applicable to the examiner, the commissioner or his designee for up to an additional 15 days for good cause upon written notice to the licensee.

Sec. 7. NAC 645B.280 is hereby amended to read as follows:

1. Before a mortgage broker or mortgage agent engages in any act or transaction on behalf of an investor pursuant to a power of attorney, the power of attorney must first be submitted to the commissioner for approval. The commissioner will, within ~~[40]~~ **15** business days after receiving a request for approval of a power of attorney:

(a) Approve the power of attorney;

(b) Approve the power of attorney on the condition that the mortgage broker amend the power of attorney as directed by the commissioner; ~~{or}~~

(c) Reject the power of attorney~~{ }~~ ; **or**

(d) Notify in writing the person requesting approval of the power of attorney that an additional period of time, not to exceed an additional 15 business days, is needed to act upon the power of attorney pursuant to this section.

2. If the commissioner has not acted **pursuant to the requirements of subsection 1** on a power of attorney submitted for approval pursuant to this section within ~~[40]~~ **15** business days after receiving a request for approval of a power of attorney, the power of attorney shall be deemed approved.

3. The mortgage broker shall maintain in his file all written communications relating to the request for approval of the power of attorney.

4. Any writing executed or issued by a person extending the term of a power of attorney must be dated, and the mortgage broker shall maintain a copy of the extension in the file of the mortgage broker.

5. A power of attorney approved by the commissioner pursuant to this section must state the date that the commissioner approved the power of attorney. If the mortgage broker materially changes the power of attorney, the mortgage broker must resubmit the power of attorney to the commissioner for approval before the mortgage broker uses the power of attorney.